

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Case No. 3:08-CV-202

**FILED**  
CHARLOTTE, NC

OCT 19 2009

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NC

LETITIA WHITAKER AND JEFFERY )  
WHITAKER, as Next Friends of )  
MARCUS WHITAKER, a minor, )

Plaintiff, )

vs. )

UNITED STATES OF AMERICA, )

Defendant. )  
\_\_\_\_\_ )

ORDER APPROVING  
MINOR'S SETTLEMENT

On this nineteenth day of October, 2009, the above-referenced matter came on for hearing and approval by the Court as to the reasonableness of a settlement between the United States of America and Marcus Whitaker, a minor.

The complete and precise terms and conditions of the settlement are set forth in the Stipulation For Compromise Settlement And Release Of Federal Tort Claims Act Claims Pursuant To 28 U.S.C. § 2677 (hereinafter "Stipulation"), attached as Exhibit "A". The Court has reviewed the Stipulation and carefully considered the record of the case and the terms of the settlement. The Court is fully informed of the specifics of the full and final terms and conditions of the settlement, including the necessity of the approval by the Attorney General of the United States on behalf of defendant United States and the approval of a court or courts of competent jurisdiction on behalf of any minor, including Marcus Whitaker and his minor siblings, including but not limited to Marlen Whitaker and Mason Whitaker, and any incompetent adult being required to sign the Stipulation releasing any and all claims said minors or incompetent adults may have against the United States as a condition of the settlement. The Court finds that the terms and conditions of

this settlement, as set forth in the Stipulation, are fair, reasonable, and in the best interests of Marcus Whitaker, a minor.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the settlement, as set forth in Exhibit A, is hereby approved. It is further Ordered that Letitia Whitaker and Jeffery Whitaker, as the parents and natural guardians of Marcus Whitaker and Richard L. Anderson, as the court appointed Guardian ad Litem of Marcus Whitaker, are authorized and required to sign the Stipulation and any other documents that are necessary to consummate this settlement on behalf of Marcus Whitaker, and to provide any information and documentation necessary to complete the settlement and the purchase of annuity contracts.


IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the settlement amount of \$1,500,000.00 (hereinafter "Settlement Amount") shall be distributed according to the terms and conditions of the Stipulation. With respect to the settlement check that will be made payable to the named plaintiff pursuant to Paragraph 3.a.i. of the Stipulation, the Court hereby Orders the plaintiff to endorse said check over to his attorneys to be deposited by the attorneys into their client trust account, from which the plaintiffs' attorneys shall first pay the attorneys' fees (including the fees of the Guardian ad Litem), costs, and expenses herein approved, then pay any liens or claims for reimbursement, and finally pay the balance remaining to Letitia Whitaker and Jeffery Whitaker for the use and benefit of Marcus Whitaker.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that attorneys' fees, including the fees of the Guardian ad Litem as herein approved, in this action shall not exceed twenty-five percent (25%) of the Settlement Amount and shall be paid as provided in the Stipulation. The Court finds that Richard L. Anderson, as the Guardian ad Litem for Marcus Whitaker, shall be paid from said attorneys' fees the sum of \$1,000.00 for services as the Guardian

ad Litem. The Court finds that the costs and expenses associated with the Guardian ad Litem process are \$ 112.00, and that such costs and expenses are fair, reasonable, and necessary. It is hereby Ordered that such costs and expenses are approved and are to be paid as provided in the Stipulation. The Court finds and holds that plaintiffs are legally responsible for any and all past, present, and future liens or claims for payment or reimbursement, including any liens or claims for payment or reimbursement by Medicaid, Medicare, or other healthcare providers. The Court hereby Orders plaintiffs, by and through their attorneys, to satisfy or resolve any and all such past, present, and future liens or claims for payment or reimbursement asserted by any individual or entity, including Medicaid and Medicare. The Court further Orders that plaintiffs and their attorneys shall provide to the United States the information required by the Stipulation regarding the satisfaction or resolution of such liens or claims for payment or reimbursement within the time specified in said Stipulation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiffs, upon notice from the United States Attorney's Office for the Western District of North Carolina that it has received the check for the amount of the Upfront Cash, shall file a motion with the District Court for the entry of an Order dismissing this action with prejudice, with each party to the action bearing its own fees, costs, and expenses, immediately subsequent to which the United States Attorney for the Western District of North Carolina will send the settlement check provided in Paragraph 3.a.i. of the Stipulation to counsel for the plaintiffs.

This the nineteenth day of October, 2009.

  
ROBERT J. CONRAD, JR.  
UNITED STATES DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:

DEFENDANT UNITED STATES OF AMERICA

BY: /s/ Sidney P. Alexander  
SIDNEY P. ALEXANDER  
Assistant United States Attorney  
Western District of North Carolina

PLAINTIFFS LETITIA WHITAKER AND JEFFERY WHITAKER

BY: /s/ Gary W. Jackson  
GARY W. JACKSON  
Jackson & McGee, LLP  
Attorneys for Letitia Whitaker,  
Jeffery Whitaker, and Marcus Whitaker, a minor

BY: /s/ Sam McGee  
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BY: /s/ Jeffery C. Anderson  
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Jeffery Whitaker, and Marcus Whitaker, a minor